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DE RUEHNY #0492/01 1281021
ZNR UUUUU ZZH
R 081021Z MAY 07
FM AMEMBASSY OSLO
TO RUEHC/SECSTATE WASHDC 5654
INFO RUEHBS/USEU BRUSSELS
RUCPDO/DEPT OF COMMERCE WASHINGTON DC

UNCLAS OSLO 000492

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DOC FOR 4212 MAC/EUR/OEURA
STATE PLS PASS TO USTR FOR JASON BUNTIN

E.O. 12958: N/A
TAGS: [ETRD](#) [ECON](#) [KIPR](#) [NO](#)
SUBJECT: AMBASSADOR CONVEYS IPR CONCERNS TO NORWEGIAN TRADE
MINISTER

REF: A) OSLO 449 B) STATE 56556 C) 2006 OSLO 811

11. (SBU) Summary: On May 4, the Ambassador discussed intellectual property right problems in Norway with Minister of Trade and Industry Dag Terje Andersen. Topping the list was Norway's weak system of patent protections for pharmaceuticals, the focus of recent high-level letters from U.S. officials and the industry's Special 301 complaint against Norway. Ministry officials defended Norway's IPR system and, with respect to the pharmaceutical patent matter, passed the buck to the Health Ministry. End summary.

Norway's Strengths and Weaknesses

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12. (SBU) The Ambassador met on May 4 with Norwegian Minister of Trade and Industry Dag Terje Andersen to discuss economic innovation and intellectual property rights issues, including Norway's weak patent protections for pharmaceuticals (refs A. B). The Ambassador described his recent trade promotion visit to the United States, telling Andersen that American venture capitalists were well aware of technological innovation in Norway and counted among the economy's strengths its educated work force transparency and low corruption, and such cultural similarities as straightforwardness in business dealings. On the other hand, American venture capitalists expressed two major concerns about Norway -- that it lacked strong, highly motivated entrepreneurs and that it did not appear committed to protecting intellectual property rights.

Serious IPR Deficiencies

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13. (SBU) The Ambassador stressed the importance of strong IPR protections to Norway's reputation as a good place to do business. The Ambassador pointed out a number of serious IPR problems in Norway, including the lack of injunctive relief against internet pirates, overly broad "private use" exceptions to copyright protections, excluding U.S. artists from the government's copyright compensation fund, attacks on Apple iTunes' business model for allegedly violating consumers' rights (ref C), no customs authority to seize counterfeit goods at the border, and weak patent protections for pharmaceuticals.

14. (SBU) The Ambassador noted that the pharmaceutical patent issue was attracting more high-level attention in Washington, citing the recent discussion of Norway's possible inclusion on USTR's "Special 301" list (refs A. B) and letters from Senator Lugar to Foreign Minister Stoere and from Commerce

Under Secretary Lavin to Andersen. He added that poor patent protections were hurting Norway as well, in lost jobs and potential investment. Local managers of American pharmaceutical companies report that their ability to draw company resources to Norway is diminishing because of the patent problem. The Ambassador concluded that this continuing commercial irritant was not good for our bilateral relationship and hampered his ability to attract new U.S. business to Norway.

15. (SBU) Andersen replied that the Health Ministry is the lead decision-maker on the pharmaceutical patent issue and that he gave U/S Lavin's letter to the Health Minister for action. (Note: During a recent courtesy call on the Health Minister, the Minister told the Ambassador to take the issue up with the Trade Minister. In Post's experience, this "passing the buck" on trade and commercial irritants is common. End note.) Andersen noted his ministry was also very interested in IPR issues, however, and that spurring innovation is one of its top current priorities. The Ambassador and Andersen discussed a possible visit by American venture capitalists to support the Ministry's efforts.

16. (SBU) With respect to broader IPR issues, the Ministry's Secretary General, Per Sanderud, took up the defense.

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Sanderud claimed that Norwegian legislation is working well and meets all Trade-Related Aspects of Intellectual Property Agreement obligations. He noted that Norway would join the European Patent Convention this year and was working on legislation to grant customs authorities power to seize pirated goods. He called the action against Apple iTunes "an issue of ownership," i.e. ensuring the ability to play downloaded music on a variety of devices, rather than an IPR issue, and (in another instance of buck passing) said the

Consumer Ombudsman, not the Trade Ministry, is the responsible agency.

17. (SBU) Andersen said Norway was also experiencing IPR problems, e.g. with China stealing its proprietary ship building technology and manufacturing knock-offs of high-end Ekornes furniture. He urged that the U.S. and Norway work together to strengthen IPR protections in China, India and other emerging markets.

Comment: No Giving Up
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18. (SBU) The basic point that the Ambassador has conveyed to senior Norwegian officials with whom he has discussed the pharmaceutical patent issue is, "We're not giving up." Neither are the local offices of American and other foreign pharmaceutical firms, nor their home offices. The U.S. firms are lobbying harder on the issue in Washington, resulting in the two recent letters from Senator Lugar and Commerce Under Secretary Lavin on the issue. The Embassy recently hosted a

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meeting of representatives of other missions whose companies are affected, including the U.K, Switzerland, Denmark, the EC, and others. Some, like the U.K. and Swiss, favor continuing to press the issue. The French are on the fence but increasingly concerned, the others hesitant. Interest in the issue is rising in many quarters, however, guaranteeing a lively year ahead.

WHITNEY